

EXHIBIT 42

Excerpts of Deposition of Professor Alan Manning

Page 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

- - -

IN RE:	:	Civil Action
	:	DOCKET NO.
CUNG LE, NATHAN QUARRY,	:	2:15-cv-01045-RFB-
JON FITCH, BRANDON VERA,	:	(PAL)
LUIS JAVIER VAZQUEZ and	:	
KYLE KINGSBURG, on behalf	:	CLASS ACTION
of themselves and all	:	
others similarly	:	
situated,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
ZUFFA, LLC, d/b/a	:	
ULTIMATE FIGHTING	:	
CHAMPIONSHIP and UFC,	:	
	:	
Defendants.	:	

- - -

Thursday, February 8, 2018

- - -

Videotaped deposition of
ALAN MANNING, taken pursuant to notice,
was held at the law offices of Berger &
Montague, P.C., 1622 Locust Street,
Philadelphia, Pennsylvania 19103,
beginning at 9:16 AM, on the above date,
before Constance S. Kent, a Certified
Court Reporter, Registered Professional
Reporter, Certified LiveNote Reporter,
and Notary Public in and for the
Commonwealth of Pennsylvania.

* * *

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<p>1 revenue for an event. Is there any other 2 part of your report that you would point 3 to me that would support that conclusion?</p> <p>4 MR. CRAMER: Objection to 5 form. You're being unclear about 6 "that part of your report." You 7 read a part of a sentence.</p> <p>8 MR. ISAACSON: The part I 9 read. The part I read.</p> <p>10 MR. CRAMER: And not the 11 entire section that it's in?</p> <p>12 MR. ISAACSON: Yes.</p> <p>13 MR. CRAMER: Take your time 14 if you need to go through --</p> <p>15 THE WITNESS: Okay. Do you 16 want me to go through every 17 paragraph and say --</p> <p>18 BY MR. ISAACSON:</p> <p>19 Q. Whatever you do.</p> <p>20 A. Okay. And could you just 21 read back the question?</p> <p>22 Q. Sure. I'm focusing on -- 23 you said that fighters are people with 24 media articles written about them and</p>	<p>1 BY MR. ISAACSON: 2 Q. I would ask you to point -- 3 I'm asking you what's in your report.</p> <p>4 MR. CRAMER: Were you 5 finished with your answer? 6 Because you can give the answer 7 and then --</p> <p>8 THE WITNESS: Well, I don't 9 think that it is only the fact 10 that they have media articles and 11 Wikipedia pages written about 12 them, which is the source of the 13 belief that the fighters are the 14 key people in these events. I 15 feel that it's when one is in the 16 event and there's some -- a fight 17 going on, that the eyes of the 18 people watching will be on those 19 fighters. They are the key 20 people.</p> <p>21 BY MR. ISAACSON: 22 Q. All right. And I think 23 that's --</p> <p>24 MR. CRAMER: And now he's</p>
<p>1 often Wikipedia pages, and your report 2 says, it's right after that:</p> <p>3 "It's reasonable to conclude 4 that the fighters are the key workers in 5 the event that the customers are watching 6 (sic) to watch and so play an important 7 role in generating event revenue."</p> <p>8 Are there any other factors 9 that you would point to in your report 10 that support your conclusion that it's 11 reasonable to conclude that the fighters 12 are the key workers in the event the 13 customer -- in the event the customers 14 are paying to watch and play an important 15 role in generating event revenues, other 16 than your reference to media articles and 17 Wikipedia pages?</p> <p>18 MR. CRAMER: So take your 19 time to go through the report to 20 answer that question.</p> <p>21 THE WITNESS: Well, the last 22 part is not the only -- I mean, I 23 think it is simply fair to say 24 when the audience are watching --</p>	<p>1 also asked you to go through the 2 report and identify -- do you 3 still want him to answer that 4 question?</p> <p>5 MR. ISAACSON: Yes. Let me 6 handle it though.</p> <p>7 BY MR. ISAACSON: 8 Q. Is there anything else in 9 your report that you can point to that 10 support that -- your conclusion that 11 customers are paying to watch and so play 12 an important role in generating event 13 revenue. That fighters are key -- let me 14 start that over.</p> <p>15 Is there anything else you 16 would point to to support your conclusion 17 that it's reasonable to conclude that 18 fighters are the key workers in the event 19 that the customers are paying to watch 20 and so play an important role in 21 generating event revenue?</p> <p>22 A. I mean, just as I go through 23 this, I'll maybe point them out, it's 24 easy if I go through it --</p>

<p style="text-align: right;">Page 30</p> <p>1 Q. That's fine. 2 A. -- as I come to them. 3 So in paragraph 6, I mean, I 4 expressed the view that it is possible to 5 think in this case that MMA fighters 6 are -- you know, part of the firm's 7 revenue can be ascribed to their 8 activities.</p> <p>9 Q. All right. And I'm looking 10 for anything that you have stated in your 11 report that supports that conclusion, 12 which is similar to your conclusion in 13 paragraph 24.</p> <p>14 A. I mean, in the conclusion as 15 well I made the same point that this is. 16 But I think what I would say is that that 17 is the paragraph that makes the case that 18 the fighters are the key workers, but 19 there are -- I would not -- I do not 20 think that I express in that paragraph 21 the totality of the evidence that one 22 could produce to reach that conclusion. 23 I mean, in a way, I think it is fairly 24 straightforward to think that the people</p>	<p style="text-align: right;">Page 32</p> <p>1 The use of wage share as 2 informative about the extent of 3 competition in the labor markets 4 is well attested, especially in 5 the field of sports economics. 6 I think the second statement 7 that you can't compute wage share 8 if you haven't got data on wage 9 share, I think of that really as a 10 statement of the obvious. It 11 would be hard to get an academic 12 article published saying you can't 13 compute something if you haven't 14 got data on it. 15 And the third one is that I 16 think it is -- relates to the fact 17 that the nature of the data in 18 this case is unusually rich, that 19 you have something akin to event 20 revenue.</p> <p>21 BY MR. ISAACSON: 22 Q. All right. Have you -- you 23 say -- you list these three factors and 24 say, These are the appropriate</p>
<p style="text-align: right;">Page 31</p> <p>1 are there to watch the fighters, the 2 audience, and so they are the key 3 workers.</p> <p>4 Q. All right. If we can look 5 now at paragraph 31 again where you cited 6 three factors which would be the 7 appropriate circumstances for labor 8 economists to use wage sharing in 9 analyzing compensation.</p> <p>10 The -- are there any 11 publications or written materials where 12 you have seen these three factors 13 previously described?</p> <p>14 MR. CRAMER: Form. 15 You may answer.</p> <p>16 THE WITNESS: I mean, I 17 think that -- I mean, perhaps if I 18 work through them one at a time.</p> <p>19 I think it is, you know, 20 very common if one is trying to 21 assess monopsony power to seek to 22 compare compensation to marginal 23 revenue product. So that is very 24 well attested.</p>	<p style="text-align: right;">Page 33</p> <p>1 circumstances for when labor economists 2 use wage share in analyzing compensation. 3 What I'd like to know is, 4 have you ever seen these three factors 5 articulated before in anything in 6 writing, a publication, an article, a 7 textbook, et cetera?</p> <p>8 MR. CRAMER: Asked and 9 answered.</p> <p>10 THE WITNESS: I mean, I feel 11 I've answered that one.</p> <p>12 BY MR. ISAACSON: 13 Q. Well, you told me about how 14 you've seen them individually, but have 15 you ever -- can you point to me to any 16 publication or other -- anything in 17 writing where someone has said that it's 18 appropriate -- labor economists use wage 19 share in analyzing compensation when 20 three appropriate circumstances are met, 21 and then list these three circumstances? 22 A. I -- in expressing my 23 opinion, I'm not simply copying out 24 conclusions that are -- it is not a</p>

1 cut-and-paste job from someone else's
 2 article. It is using well-attested
 3 techniques and measures from the existing
 4 literature, but combining them in a way
 5 that I think is wholly appropriate to
 6 this particular case. And that is what I
 7 think of actually as trying to express an
 8 expert opinion.

9 Q. All right. And I understand
 10 you think that these are the appropriate
 11 circumstances and you stated your reasons
 12 for such, but I'd still like to know if
 13 anybody -- of you've seen anybody write
 14 out before that these are the three
 15 appropriate circumstances for labor
 16 economists to use wage share in analyzing
 17 compensation?

18 MR. CRAMER: Asked and
 19 answered.

20 THE WITNESS: I feel I've
 21 answered it. These are my own
 22 words. Did I cut and paste these
 23 from someone else? No.

24 BY MR. ISAACSON:

1 My question is: Even if
 2 they're not word-for-word, have you seen
 3 any publication that lists these three
 4 things, in sum and substance, as the
 5 appropriate circumstance for a labor
 6 economist to analyze wage -- to use wage
 7 share in analyzing compensation?

8 A. I mean, wage share is very,
 9 you know, commonly used in the sport
 10 economics literature, so I'm drawing --
 11 drawing from that.

12 I think the statement of the
 13 question, which is the first criterion is
 14 really just a statement of the question
 15 in this case as I understand it. So I'm
 16 not quite sure how I would take the
 17 question in this case from some other
 18 pre-existing -- pre-existing.

19 I mean, I think in cases
 20 where one is trying to assess the impact
 21 of anticompetitive practices, one is
 22 trying to compare the actual compensation
 23 in this case with compensation in the
 24 but-for world.

1 Q. All right. And when you
 2 say -- I know you didn't cut and paste
 3 them, but have you seen any -- have you
 4 seen anybody list these three criteria,
 5 you know, in substance as the appropriate
 6 circumstance for when you -- labor
 7 economists would use wage share in
 8 analyzing compensation?

9 A. I mean, I -- in my report
 10 here I'm trying to express an opinion on,
 11 you know, the particular questions I was
 12 asked to address, and obviously that
 13 is -- in some sense it is -- you know, it
 14 is a particular case. So I am combining
 15 well-attested, well-established ideas in
 16 a way that is appropriate to that case,
 17 and I think that is appropriate to
 18 expressing an expert opinion.

19 Q. Right. And you've said to
 20 me a couple times that you think these
 21 three things are appropriate and I
 22 understand that. And you said to me
 23 they're not a cut and paste,
 24 word-for-word.

1 So I think that's completely
 2 standard.

3 Q. All right. I still don't
 4 know whether you're telling me anybody
 5 has listed these three things before.

6 A. I mean, I haven't seen -- I
 7 mean, they're totally appropriate, and
 8 you know, I'm combining well-attested
 9 ideas, well-established ideas in a way
 10 that's appropriate to that case, for that
 11 combination -- because I'm not aware of
 12 somebody who has written about this
 13 particular case, that particular
 14 combination which I chose to be
 15 appropriate to this case and what I
 16 think -- that is what I think I should be
 17 doing when expressing an expert opinion,
 18 I haven't got that.

19 Q. All right. So you've
 20 reached the opinion that these three
 21 factors are the appropriate circumstances
 22 to consider in this particular case.

23 Can you point me to
 24 anything -- any literature where these

1 three factors were considered appropriate
 2 for some other -- for some other type of
 3 facts or some other case?

4 A. Well, I think that -- I
 5 mean, let me take them in order.

6 Q. I would like them in
 7 combination. Not individually, in
 8 combination, all three?

9 A. I think --

10 MR. CRAMER: Form.

11 You may answer.

12 THE WITNESS: I mean, what
 13 I'm doing here is taking well-
 14 established ideas individually and
 15 drawing on ideas from established
 16 work, well-established, and
 17 combining them in a way that is
 18 appropriate for this case. I
 19 think that is appropriate to what
 20 one is asked to do as an expert.

21 BY MR. ISAACSON:

22 Q. You've told me that several
 23 times.

24 A. Yeah.

1 It is, "How do the earnings of fighters
 2 compare to what they would have earned in
 3 a competitive market?"

4 Is that the appropriate
 5 question in this case?

6 MR. CRAMER: Form.

7 Objection to form.

8 THE WITNESS: I mean, I
 9 think one is seeking a comparison
 10 of the actual earnings to what
 11 they would have been in the
 12 but-for world, which is the
 13 absence of the challenged conduct,
 14 and I was using the phrase there
 15 "competitive market" to refer to
 16 absence of the challenged conduct.

17 BY MR. ISAACSON:

18 Q. And do you understand that
 19 Dr. Singer is using foreclosure share and
 20 using that to define both the actual
 21 world and the reduced foreclosure share
 22 as the but-for world?

23 A. I mean, I haven't studied
 24 that or expressed an opinion on it.

1 Q. You've got it on the
 2 record --

3 A. Yes.

4 Q. -- that you feel it is
 5 appropriate to combine these three
 6 circumstances in this -- for the facts of
 7 this case.

8 And what I'm asking you now,
 9 have you run across, in any of your
 10 research or writing or teaching, any
 11 other specific facts or cases where
 12 someone said the three circumstances that
 13 you've identified are the appropriate way
 14 to determine that wage share should be
 15 used in analyzing compensation, all three
 16 in combination?

17 A. But there is no equivalent
 18 to this case in -- you know, it's about
 19 the particular case.

20 Q. So looking at paragraph 10,
 21 you discussed the question in this
 22 litigation.

23 "In this litigation, the
 24 question to be considered is different.

1 Q. Do you have any
 2 understanding of -- what is your
 3 understanding of foreclosure share as
 4 Dr. Singer expresses it?

5 A. I mean, I haven't studied
 6 that to express an opinion on that.

7 Q. And would you agree with the
 8 statement that when monopsony power is
 9 high, a firm is able to suppress a
 10 worker's compensation below the
 11 competitive level?

12 A. In general, yes, that is
 13 what I think happens when you have
 14 monopsony in the labor market.

15 Q. All right. And is it your
 16 understanding that Dr. Singer is using
 17 his definition of foreclosure share to
 18 express Zuffa's degree of monopsony
 19 power?

20 A. I mean, I haven't expressed
 21 an opinion on that. I haven't been asked
 22 to address that.

23 Q. Do you even -- I understand
 24 you haven't expressed an opinion on

<p style="text-align: right;">Page 42</p> <p>1 whether that's appropriate. Is that your 2 understanding of what Dr. Singer is doing 3 here, that he's using foreclosure share 4 to express Zuffa's amount of monopsony 5 power?</p> <p>6 A. I mean, he uses foreclosure 7 share in the actual world and then in a 8 but-for world, but I have not studied his 9 interpretation of it or expressed an 10 opinion -- expressed an opinion on what 11 his interpretation is or reflected on 12 what his interpretation is.</p> <p>13 Q. Do you have an opinion about 14 whether the appropriate analysis in this 15 case would look at whether, when 16 foreclosure share is high, wages are low, 17 compared to when foreclosure share is 18 lower?</p> <p>19 MR. CRAMER: Objection to 20 form.</p> <p>21 MR. ISAACSON: It didn't 22 come out very well. I agree with 23 you.</p> <p>24 BY MR. ISAACSON:</p>	<p style="text-align: right;">Page 44</p> <p>1 now talking about level of pay 2 rather than wage share.</p> <p>3 BY MR. ISAACSON:</p> <p>4 Q. Yes.</p> <p>5 A. It's important -- the 6 question here is to compare actual 7 compensation to what the compensation 8 would have been in the but-for world, so 9 it's a comparison not of the level.</p> <p>10 Q. Okay. Would it be a proper 11 test of Dr. Singer's theory to relate 12 foreclosure shares to the actual 13 compensation in the real world compared 14 to the but-for world?</p> <p>15 MR. CRAMER: Objection to 16 form. What do you mean by proper 17 test?</p> <p>18 If you understand it, you 19 may answer it.</p> <p>20 THE WITNESS: I mean, I 21 think my answer to the previous 22 question I think that I was 23 answering, I didn't really 24 understand the distinction between</p>
<p style="text-align: right;">Page 43</p> <p>1 Q. Would you agree that the 2 question in this case would look -- would 3 compare high foreclosure shares to lower 4 foreclosure shares and look at 5 compensation in those two situations?</p> <p>6 MR. CRAMER: Same objection.</p> <p>7 You may answer if you 8 understand it.</p> <p>9 THE WITNESS: No.</p> <p>10 BY MR. ISAACSON:</p> <p>11 Q. Okay. All right. Do you 12 think it's -- do you think Dr. Singer's 13 model would be -- would be appropriate if 14 foreclosure share is not correlated with 15 the marginal revenue product of labor?</p> <p>16 A. I'm sorry, I didn't really 17 understand that.</p> <p>18 Q. How about this? Would it be 19 a proper task of Dr. Singer to relate 20 foreclosure share to the level of athlete 21 pay?</p> <p>22 MR. CRAMER: Objection to 23 form.</p> <p>24 THE WITNESS: I mean, you're</p>	<p style="text-align: right;">Page 45</p> <p>1 the two questions.</p> <p>2 BY MR. ISAACSON:</p> <p>3 Q. Well, you said the question 4 here is to compare actual compensation to 5 the compensation that would have been in 6 the but-for world.</p> <p>7 Is it your understanding 8 that you should be comparing actual -- 9 under Dr. Singer's analysis that when 10 you're comparing actual compensation to 11 but-for world compensation, you should be 12 looking at two different foreclosure 13 shares, a high foreclosure share and a 14 lower for foreclosure share?</p> <p>15 A. I mean, I haven't -- I would 16 have to think about that. I haven't 17 expressed an opinion on -- on that. I 18 haven't thought about it.</p> <p>19 Q. All right. Now, in your 20 report, do you reach any conclusions as 21 to whether non-athletic inputs as opposed 22 to just the contribution of athletes 23 contribute to event revenues?</p> <p>24 A. I don't reach an opinion on</p>

1 that in my report.

2 Q. All right. Do you have an
3 opinion about whether not -- inputs not
4 related to the contribution of athletes
5 contribute to success of sports such as
6 the NFL, NBA, Major League Baseball?

7 A. I mean, I don't have an
8 opinion. I haven't studied those sports
9 and so I don't have an opinion on it.

10 Q. All right. Do you have an
11 opinion about whether the television --
12 the quality of the television production
13 would contribute to the revenues of, for
14 example, the NFL?

15 A. I mean, I haven't studied
16 that so I couldn't express an opinion on
17 that.

18 Q. Do you have an opinion about
19 whether the television production quality
20 would contribute to the success of the --
21 to the event revenues of the UFC?

22 A. I mean, I haven't studied
23 that and so I don't have an opinion on
24 that.

1 the pairing of two fighters contributes
2 to the event revenue as opposed to the
3 individual contributions of both?

4 A. I mean, I haven't -- I would
5 have to think about that, I haven't
6 studied that, so I haven't got an opinion
7 on it.

8 Q. All right. You've said that
9 fighters do play a role in generating
10 event revenue. We've gone over that.

11 The -- if a specific
12 athlete -- if an individual athlete
13 fights at a UFC event and then -- or
14 fights at a Bellator event, if you're
15 looking at those two alternatives, would
16 you expect that the same athlete would
17 contribute the same amount of event
18 revenues to a UFC event as a Bellator
19 event?

20 MR. CRAMER: Form,
21 incomplete hypothetical.

22 You may answer if you
23 understand.

24 THE WITNESS: I mean, I --

1 Q. All right. Do you have an
2 opinion about whether the UFC, apart from
3 its fighters, has taken actions that
4 contribute to event revenues?

5 A. I mean, I haven't studied
6 that so I don't have an opinion on that.

7 Q. All right. So do you have
8 an opinion about whether advertising of
9 an athletic -- of UFC athletic event
10 contributes to event revenue?

11 A. I haven't studied that so I
12 don't have an opinion on that.

13 Q. Do you have an opinion about
14 whether promotional efforts for a UFC
15 event contribute to event revenue?

16 A. I haven't studied that to
17 have an opinion on that. I would have to
18 think about it and I haven't thought
19 about it.

20 Q. All right. Do you have an
21 opinion about whether the matchmaking of
22 two athletes as opposed to the individual
23 contribution of the athletes contribute
24 to events revenues; in other words, that

1 you know, I would have to think
2 about it. I mean, you're talking
3 about a hypothetical but about two
4 real companies -- two real
5 companies.

6 BY MR. ISAACSON:

7 Q. Yes.

8 A. And I'm not quite sure
9 how -- what part of the world is changing
10 for that to -- for that to happen.

11 Q. All right. If you have an
12 event at the same time, in the same
13 location and the -- and the fighters
14 between the -- and the other fighters of
15 the event are of relatively equal ranking
16 and the one thing -- but the only thing
17 you're going to change is the fighter at
18 the UFC event will now be at the Bellator
19 event, would you expect the contribution
20 to event revenues to be the same as at
21 the UFC event and the Bellator event?

22 MR. CRAMER: Incomplete
23 hypothetical, form.

24 You may answer if you

<p style="text-align: right;">Page 50</p> <p>1 understand. 2 THE WITNESS: I mean, I 3 haven't thought about that, and it 4 would need thought before 5 expressing opinion.</p> <p>6 BY MR. ISAACSON:</p> <p>7 Q. Right. In thinking through 8 that, what factors would you look at 9 before you would reach an opinion?</p> <p>10 A. I would need to think about 11 what factors are relevant as well.</p> <p>12 Q. Are there any relevant 13 factors you can tell me today that you 14 would look at? And understanding you 15 would not be able to give me a complete 16 list today.</p> <p>17 A. No, I would want to have 18 some time to think about it.</p> <p>19 Q. Do you have an opinion 20 about -- you said that the fighters play 21 a role in contributing to event revenues. 22 Do you have an opinion -- have you done 23 any work that would allow you to quantify 24 that contribution?</p>	<p>1 A. Sorry, can you just read 2 that back? I'm sorry about that.</p> <p>3 Q. Let me try it again to make 4 it easier. I just want -- you listed the 5 third factor. I won't re-read it.</p> <p>6 A. Okay.</p> <p>7 Q. Why is that third factor 8 necessary in order for a labor economist 9 to use wage share in analyzing 10 compensation?</p> <p>11 A. I mean, that's mixing up a 12 number of different things. I mean -- I 13 mean, what I would say is -- I mean, 14 first of all, if one is trying to measure 15 the marginal revenue product, one wants 16 to make sure that one is focusing on a 17 part of the revenue which the work of 18 that particular worker has gone towards 19 generating.</p> <p>20 And then at the end of the 21 question, you put in that wage share, and 22 I wasn't quite sure what that was doing 23 there.</p> <p>24 Q. All right. Well, because --</p>
<p style="text-align: right;">Page 51</p> <p>1 A. I -- I mean, I haven't done 2 any work with data in this case, so no, 3 without having done that, I couldn't 4 express an opinion.</p> <p>5 Q. All right. Do you have an 6 opinion about whether there are other 7 substantial factors that contribute to 8 event revenue other than the contribution 9 of fighters, referring to UFC events?</p> <p>10 A. I would have to think about 11 that, but I haven't been asked to think 12 about that and so I haven't got an 13 opinion.</p> <p>14 Q. All right. Let's go back to 15 your third factor, paragraph 31 where you 16 list for three factors.</p> <p>17 Why is it necessary to 18 obtain -- let me start that question 19 over.</p> <p>20 Why is it necessary to 21 ascribe a measurable part of a firm's 22 revenue to the activities of a particular 23 worker or group of workers in order to 24 use wage share in analyzing compensation?</p>	<p>1 I'm just referring to your first sentence 2 here:</p> <p>3 "Dr. Oyer," -- "Drs. Oyer 4 and Topel are incorrect in asserting that 5 labor economists do not use wage share in 6 analyzing compensation."</p> <p>7 A. Yeah.</p> <p>8 Q. "We do under appropriate 9 circumstances."</p> <p>10 A. Yes.</p> <p>11 Q. "Those circumstances arise 12 when," and you list three things?</p> <p>13 A. Yes</p> <p>14 Q. So am I correct that 15 these -- that items three there is 16 necessary in order for it to be 17 appropriate to use wage share in 18 analyzing compensation?</p> <p>19 A. I mean, I would put it as it 20 is sufficient. I'm not saying that there 21 are no other conceivable possible 22 circumstances in which it would be 23 appropriate to use wage share.</p> <p>24 Q. All right. Let's limit us</p>

1 to our -- to this case?

2 A. Yeah.

3 Q. It would be necessary in
4 this case for that third factor to be
5 true in order to use wage share to
6 analyze compensation?

7 A. I mean, I haven't -- I
8 haven't given thought to that and I would
9 have to think about that -- I would have
10 to think about that before expressing an
11 opinion on that.

12 Q. Okay. Well, let me try it
13 this way: If that third factor is not
14 met, you would not -- you would not have
15 an opinion in this case that it was
16 appropriate to use wage share to analyze
17 compensation?

18 A. I mean, I would not put it
19 like that. I mean, I expressed my
20 opinion that it is appropriate because
21 these facts are there. I have not
22 considered at all whether if that
23 situation was not satisfied there would
24 be some other way to do that. So I do

1 way or other, as to whether it's
2 appropriate to use wage share in
3 analyzing compensation?

4 A. But that alternative
5 world -- I mean, I don't feel all the
6 relevant factors in that alternative
7 world and suddenly event revenue is not
8 available are specified. So I mean, I
9 have concentrated on expressing an
10 opinion on how one should analyze things
11 with the data that is available. I have
12 not given thought to it or expressed any
13 opinion on what would happen if you
14 suddenly said event revenue was -- was
15 not there.

16 Q. All right.

17 A. I mean, there are other --

18 Q. Let me ask -- I don't mean
19 to interrupt. Let me ask questions here.

20 So I want to be clear. I'm
21 not just saying if event revenue is not
22 here. I'm talking about your third --
23 because I'm not sure what you mean by if
24 event revenue disappears.

1 not have an opinion on whether there
2 isn't another alternative way or not.

3 Q. All right. And -- but if
4 you remove that third factor, as of
5 today, you would not have an opinion one
6 way or the other as to whether it was
7 appropriate to use wage share in
8 analyzing compensation in this case?

9 A. I mean, I'm not sure. When
10 you say remove -- remove --

11 Q. If the third factor were not
12 satisfied.

13 A. So that we didn't have event
14 revenue at all in this case you mean?

15 Q. No. No. So if -- if it was
16 not possible to ascribe a measurable part
17 of a firm's revenue to the activities of
18 a particular worker or group of workers
19 in this case --

20 A. But I feel one has to --

21 Q. Let me finish the question.

22 A. I'm sorry.

23 Q. If that were not possible,
24 you would not have an opinion today, one

1 You said something specific
2 here, that it's possible to ascribe a
3 measurable part of a firm's revenue to
4 the activities of a particular worker or
5 group of workers. If that were not
6 possible, am I correct that as of today,
7 you would not have an opinion that it is
8 appropriate to use wage share in
9 analyzing compensation? It is possible
10 that you could go do additional analysis
11 and find other factors to justify it, but
12 as of today with that third condition,
13 assuming that third condition has not
14 been met, you would not have an opinion
15 about whether it was appropriate to use
16 wage share in analyzing compensation?

17 A. Well, I think -- I'm still
18 getting a little bit confused here. The
19 event revenue is in this case, the part
20 of the firm's revenue which is linked to
21 the activities of a particular group of
22 workers. So when you say that is not
23 there, I find that hard to imagine what
24 that means except that event revenue is

1 not available.

2 I mean, there is also, in
 3 Dr. Zimbalist's report, he does have
 4 comparison of wage share in UFC with wage
 5 share in other sports, and I think that's
 6 also an important part of information --
 7 evidence in this case, although it's not,
 8 you know, the part of the evidence that I
 9 was addressing in my report.

10 Q. I'm going to -- I understand
 11 you're saying I don't know how this could
 12 be.

13 A. Yeah.

14 Q. Right? For purpose of my
 15 question --

16 A. Yeah.

17 Q. -- I'm going to ask you to
 18 assume that in this case it was not
 19 possible to ascribe a measurable part of
 20 a firm's revenue to the activities of a
 21 particular worker or group of workers.
 22 Once your third proposition is removed,
 23 am I correct that you don't have an
 24 opinion one way or another as to whether

1 revenue to the activities of a particular
 2 worker or group of workers. Does that
 3 mean it's sufficient to meet either one,
 4 do you need both? I'm trying to
 5 understand your -- because you mentioned
 6 both, of a particular worker or group of
 7 workers?

8 A. Well, I think of it as an
 9 or, so it's one of the two.

10 Q. Right. And is it your
 11 opinion that the record in this case
 12 makes it possible to ascribe a measurable
 13 part of a firm's revenue to the
 14 activities of a particular worker?

15 A. I have -- I mean, I have not
 16 been asked to express an opinion about
 17 that. I have not given thought to that,
 18 so I don't have an opinion on that.

19 Q. Okay. Is it your opinion in
 20 this case that it's possible to ascribe a
 21 measurable part of a firm's revenue to
 22 the activities of a particular group of
 23 workers?

24 A. I think that the event

1 wage share is appropriate in analyzing
 2 compensation? You make the proviso that
 3 you might be able to go look, do an
 4 analysis and find other factors, but as
 5 of today, you would not have an opinion?

6 A. I would have to think about
 7 how one might seek to, you know, analyze
 8 what data was available. I have not, you
 9 know, thought about that hypothetical
 10 situation and so I don't have an opinion
 11 on it.

12 Q. All right. And you
 13 mentioned Dr. Zimbalist's comparison to
 14 others -- between Zuffa and other sports.
 15 Do you reach any opinions in your report
 16 as to whether it was appropriate to
 17 compare revenue -- labor share in one
 18 sport to another sport?

19 A. No, I was not asked for --
 20 to express an opinion on that. I have
 21 not thought about that.

22 Q. All right. Now, in Item 3,
 23 there's an or at the end. It is possible
 24 to ascribe a measurable part of a firm's

1 revenue is -- you know, the fighters in
 2 that event are -- the revenue from that
 3 event is connected to the activities of
 4 the workers in that fight, yes.

5 Q. And you reach that opinion
 6 based on what you said in paragraph 24;
 7 is that correct?

8 A. I mean, not only that.
 9 That's what I expressed, that's how I
 10 summarized that view, but I would go back
 11 to just simply saying that I think the
 12 fighters are the key people here, that
 13 that is who all eyes are on when there is
 14 a fight going on.

15 Q. But in terms of what you
 16 have actually said in your report, your
 17 reasons for concluding that it's possible
 18 to ascribe a measurable part of a firm's
 19 revenue to the activities of a particular
 20 group of workers, what you've said in
 21 your report about that can be found in
 22 paragraph 24?

23 MR. CRAMER: Objection to
 24 form.

1 THE WITNESS: I mean, I
 2 think that that is -- no, I don't
 3 really accept that. I think it is
 4 more generally just saying that
 5 the workers are the key people.

6 BY MR. ISAACSON:

7 Q. All right. Now, why does
 8 what you say in paragraph 24 together
 9 with workers being key people mean that a
 10 measurable part of a firm's revenue is --
 11 can be ascribed to a group -- to a group
 12 of fighters in this case? Where do you
 13 get the measurable part?

14 A. I mean, I think the -- I
 15 mean, what I meant by measurable part
 16 here is really that there are techniques
 17 available in order to control for this.

18 So if one takes Dr. Singer's
 19 approach, he's seeing how variation in
 20 the foreclosure effect affects the worker
 21 share. All things being equal.

22 Q. All right. So as part of
 23 your report, you did not do any work as
 24 to whether -- do any work that would

1 MR. CRAMER: Objection to
 2 form.

3 THE WITNESS: No. I mean,
 4 the claim is not the workers
 5 should have 100 percent of the
 6 event revenue, that they would
 7 have that in the but-for world.
 8 The claim is that they would have
 9 a higher share than they actually
 10 had.

11 BY MR. ISAACSON:

12 Q. All right. And based on
 13 your -- the work you've done in this
 14 case, what is your understanding of what
 15 factors contribute to event revenues?
 16 You've named the role of athletes. What
 17 else would contribute?

18 A. I mean, I haven't studied
 19 that so I don't have an opinion on that.

20 MR. CRAMER: We've been
 21 going for almost an hour. If this
 22 is a good time to break, we can
 23 break.

24 MR. ISAACSON: Sure.

1 allow you to conclude that a measurable
 2 part of a firm's revenue can be
 3 attributed to any group of UFC fighters;
 4 is that correct?

5 MR. CRAMER: Asked and
 6 answered, form.

7 THE WITNESS: I mean, I
 8 would simply, you know, repeat
 9 what I said earlier that here is
 10 some revenue coming from this
 11 particular event, the fighters are
 12 in that event, and so there is a
 13 connection between the fighters in
 14 that event and the revenue that
 15 flows through that event.

16 BY MR. ISAACSON:

17 Q. But you did not try to
 18 measure the amount of that connection; is
 19 that correct?

20 A. I have not worked with the
 21 data in this case.

22 Q. All right. And is all of
 23 the event revenue for the Zuffa event
 24 attributable to the fighters?

1 THE VIDEOGRAPHER: The time
 2 is 10:12 AM. We're going off the
 3 record.

4 (Recess.)

5 THE VIDEOGRAPHER: The time
 6 is 10:25 AM. We are back on the
 7 record.

8 BY MR. ISAACSON:

9 Q. Professor Manning, how
 10 much -- approximately how many hours did
 11 you spend preparing your report in this
 12 case?

13 A. I mean, I haven't got the
 14 exact figure in my head. I mean, I kept
 15 a record of how many hours, so I think it
 16 was -- I mean, up to what point?
 17 Obviously I'm working on it now.

18 Q. Up to this submission --
 19 spent on the report.

20 A. Okay. I'm afraid I haven't
 21 got the exact figure in my head.

22 Q. All right. Can you give me
 23 an approximate range?

24 A. I think it's around about

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<p>1 the basis for the opinion.</p> <p>2 A. Yup.</p> <p>3 Q. If revenue for the fight is</p> <p>4 twice as large, then the MR -- marginal</p> <p>5 revenue product is twice as high.</p> <p>6 A. Yup.</p> <p>7 Q. I'm not getting the double</p> <p>8 twice there.</p> <p>9 A. Well, I'm imagining if we</p> <p>10 can talk about a hypothetical --</p> <p>11 Q. Right.</p> <p>12 A. -- situation, that, you</p> <p>13 know, there's a certain amount of people</p> <p>14 watching money -- watching this and</p> <p>15 paying money to watch, whether it's in</p> <p>16 person or the event, and then we double</p> <p>17 the amount of the people who are paying,</p> <p>18 then that would imply that the marginal</p> <p>19 revenue product of the labor of the</p> <p>20 fighters has -- has doubled.</p> <p>21 Q. All right. So I'm -- maybe</p> <p>22 I'm understanding this now. So when you</p> <p>23 say if revenue for the fight is twice as</p> <p>24 large, then the marginal revenue product</p>	<p>1 margin -- no, it's not ascribing</p> <p>2 all of it to the marginal revenue</p> <p>3 product, it's that -- a work</p> <p>4 that's marginal revenue product</p> <p>5 can change without the actual</p> <p>6 physical act of work changing, the</p> <p>7 fighters can stay the same, but</p> <p>8 there's just twice as many people</p> <p>9 watching and so the revenue is</p> <p>10 twice as high and so the marginal</p> <p>11 revenue is twice as high.</p> <p>12 So it doesn't require -- for</p> <p>13 the marginal revenue to go up when</p> <p>14 revenue goes up, it doesn't</p> <p>15 require, you know, the workers to</p> <p>16 have been -- the fighters to have</p> <p>17 been doing anything different.</p> <p>18 BY MR. ISAACSON:</p> <p>19 Q. Well, if the revenue for the</p> <p>20 fight grows by a factor of two, why does</p> <p>21 that mean that the marginal revenue</p> <p>22 product of labor is twice as high?</p> <p>23 MR. CRAMER: Asked and</p> <p>24 answered.</p>
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<p>1 is twice as high, are you hypothesizing</p> <p>2 both that the revenue for the fight is</p> <p>3 twice as large and that the marginal</p> <p>4 revenue product is twice as high?</p> <p>5 A. No, I'm saying if the</p> <p>6 revenue for the fight is twice as high,</p> <p>7 then the marginal revenue product will be</p> <p>8 twice as high.</p> <p>9 Q. All right. And what is it</p> <p>10 that supports that -- what work in your</p> <p>11 report shows that if the revenue goes up</p> <p>12 by a factor of two, then that means that</p> <p>13 the marginal revenue product was twice as</p> <p>14 high?</p> <p>15 A. Because that is -- the</p> <p>16 revenue has doubled and so that is -- the</p> <p>17 marginal revenue product is doubling.</p> <p>18 Q. All right. And what is it</p> <p>19 that allows you to ascribe all of the</p> <p>20 doubling of revenue for the fight to the</p> <p>21 marginal revenue product?</p> <p>22 MR. CRAMER: Objection to</p> <p>23 form.</p> <p>24 THE WITNESS: I mean, the</p>	<p>1 THE WITNESS: I feel I've</p> <p>2 answered that. I do feel I've</p> <p>3 answered that.</p> <p>4 BY MR. ISAACSON:</p> <p>5 Q. Well, what -- I'm going to</p> <p>6 go over it. I'm not even saying you</p> <p>7 haven't answered it.</p> <p>8 A. Okay. No, that's all right.</p> <p>9 Q. I swear to you I haven't</p> <p>10 understood your answer, so I'm going to</p> <p>11 over it until I understand it.</p> <p>12 The -- are you saying that</p> <p>13 if event revenues double, it is</p> <p>14 necessarily true that the marginal</p> <p>15 revenue product of the athletes had to</p> <p>16 have doubled?</p> <p>17 A. Yes, I think that is what</p> <p>18 it's saying. I mean, it's saying it is</p> <p>19 plausibly proportional -- sorry,</p> <p>20 proportional means that a doubling leads</p> <p>21 to a doubling.</p> <p>22 Q. Okay. So am I correct that</p> <p>23 what you're saying is if the revenues are</p> <p>24 proportional to the marginal revenue</p>

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<p>1 product of labor, then you can conclude 2 that if event revenues double, then 3 marginal revenue product of labor has 4 doubled?</p> <p>5 A. I'm sorry, could you just 6 read that back?</p> <p>7 Q. Sure.</p> <p>8 A. I'm a bit confused.</p> <p>9 Q. So is what you're saying is 10 that if revenues are proportional to the 11 marginal revenue product of labor, then 12 you can conclude that if event revenues 13 double, then the marginal revenue product 14 of labor has doubled?</p> <p>15 MR. CRAMER: Objection to 16 form.</p> <p>17 You may answer if you 18 understand.</p> <p>19 THE WITNESS: I think the if 20 at the start I didn't really 21 agree, and I think I prefer my 22 previous answers to --</p> <p>23 BY MR. ISAACSON:</p> <p>24 Q. Have you done any work in</p>	<p>1 is or -- form. 2 You may answer if you 3 understand.</p> <p>4 THE WITNESS: Yeah, I'm 5 sorry, I'm not quite sure I'm 6 understanding. Can you either 7 read it back or re-express it.</p> <p>8 BY MR. ISAACSON:</p> <p>9 Q. All right. So paragraph 27 10 concludes -- again this is my effort to 11 understand what you have written.</p> <p>12 A. Okay.</p> <p>13 Q. Paragraph 27 concludes: 14 "The marginal revenue" -- 15 "So the marginal revenue product will be 16 proportional to the event revenue." 17 Is the first sentence in 18 that paragraph an example -- are you 19 presenting an example of what happens 20 when marginal revenue product is 21 proportional to event revenue?</p> <p>22 MR. CRAMER: Form. 23 You may answer.</p> <p>24 THE WITNESS: The first</p>
<p>1 this case -- have you done any work 2 reflected in your report that shows 3 that -- that in order for event revenue 4 to double, the marginal revenue product 5 of athletes at the event has to double?</p> <p>6 MR. CRAMER: Objection to 7 form.</p> <p>8 You may answer.</p> <p>9 THE WITNESS: I mean, I 10 haven't studied, you know, the 11 data, the particular situations, 12 so I haven't got an opinion on 13 that.</p> <p>14 BY MR. ISAACSON:</p> <p>15 Q. All right. Is -- the first 16 sentence in paragraph 27 is followed by 17 the sentence, "So the marginal revenue 18 product will be proportional to the event 19 revenue," are you -- is the first 20 sentence in paragraph 27 an example of 21 what happens when event revenue and 22 marginal revenue product are proportional 23 to one another?</p> <p>24 MR. CRAMER: Is that all it</p>	<p>1 sentence in paragraph 27 is, you 2 know, inviting them to think about 3 a hypothetical situation in which 4 event revenue doubles, and to say 5 that, yes, then the marginal 6 revenue product of labor will 7 double as well. So they're not -- 8 they can vary independently in 9 that example. So it's simply a 10 way of expressing proportionality, 11 although perhaps it seems not a 12 very clear way.</p> <p>13 BY MR. ISAACSON:</p> <p>14 Q. And maybe it's helpful just 15 to state that the first sentence in 16 paragraph 27 is a hypothetical that 17 you're discussing; is that correct?</p> <p>18 MR. CRAMER: Objection to 19 form.</p> <p>20 You may answer.</p> <p>21 THE WITNESS: I mean, I 22 haven't worked with the data in 23 this case. I mean, so it's 24 hypothetical, but I think it's --</p>

1 you know, it's a very plausible,
2 reasonable hypothetical.

3 BY MR. ISAACSON:

4 Q. And do you have an opinion
5 as to whether the marginal revenue
6 product of inputs to events other than
7 the athlete is proportional to event
8 revenue?

9 A. I mean, I haven't worked
10 with the data in this case, so I haven't
11 got an opinion on that in this case.

12 Q. And for your opinion in this
13 case in paragraph 5, that wage share is
14 an appropriate way to analyze the
15 compensation of MMA fighters in this
16 case, is one premise for that conclusion
17 that event revenue is plausibly
18 proportional to marginal revenue product?

19 A. I mean, this is holding, you
20 know, other things equal, yes.

21 Q. And if marginal revenue
22 product is not shown to be proportional
23 to event revenue in this case, am I
24 correct you would not be able to reach an

1 form.

2 THE WITNESS: I don't think
3 that -- I mean, I haven't thought
4 about that, so I would have to
5 think about that.

6 BY MR. ISAACSON:

7 Q. All right. Based on your
8 work as a labor economist, do you think
9 it's accepted that higher wages for
10 workers means that they will be retained
11 more effectively?

12 A. I mean, higher wages
13 relative to alternatives that they might
14 have. I mean, so I think it's more an
15 expression not of the level of wages, but
16 wages in one firm relative to other
17 opportunity. And obviously in this case
18 those other opportunities are being
19 restricted.

20 Q. Do you agree that those in
21 higher paid jobs are less likely to look
22 for other jobs?

23 MR. CRAMER: Objection to
24 form.

1 opinion, without at least further
2 analysis, of whether wage share is an
3 appropriate way to analyze the
4 compensation of MMA fighters in this
5 case?

6 MR. CRAMER: Objection to
7 form.

8 You may answer.

9 THE WITNESS: I mean, I
10 haven't considered the other case,
11 so that, I mean, I haven't got an
12 opinion. I would have to -- have
13 to think about that. But that
14 isn't the same as saying it would
15 not be possible.

16 BY MR. ISAACSON:

17 Q. All right. Would you agree
18 that if the marginal revenue product of
19 the inputs other than the athletes was
20 not proportional, then the -- to event
21 revenue, then the marginal revenue
22 product of the fighters would also not be
23 proportional?

24 MR. CRAMER: Objection to

1 THE WITNESS: I have -- you
2 know, I have done some, I believe
3 in the book that I wrote in 2003
4 there was some regressions that
5 they were looking at -- and this
6 is controlling for other factors,
7 and one has to understand that
8 that's across the whole of the
9 market, so I would not draw the
10 conclusion from that, that that
11 was -- the conclusions of those
12 regressions would be applicable in
13 this particular case, to this type
14 of labor, which is -- you know, is
15 rather different in some ways from
16 what most people are doing.

17 BY MR. ISAACSON:

18 Q. So while you would not
19 necessarily apply that conclusion here,
20 it's fair to say that based on the work
21 you've done, that generally in the labor
22 market, those in higher paid jobs are
23 less likely to look for other jobs?

24 A. It's higher paid relative to

<p>1 their other alternatives. 2 Q. Yes. And those higher 3 paid -- those individuals in higher paid 4 jobs are also likely to search for other 5 jobs less intensively; is that correct? 6 A. Higher paid relative to 7 other alternatives. 8 Q. All right. And in general 9 in the labor markets, the higher the 10 salary offered by the current job, the 11 less likely the worker is to seek 12 alternative opportunities and to move 13 jobs, is that fair? 14 MR. CRAMER: Asked and 15 answered. 16 THE WITNESS: Yeah. I mean, 17 I feel I've answered that. I 18 mean, it's relative wages not the 19 absolute level. 20 BY MR. ISAACSON: 21 Q. And it's also true, I gather 22 from your previous work, that empirical 23 studies of labor market have concluded 24 that there's a variation in wages that</p>	<p>Page 98</p> <p>1 Q. This would be -- 2 MR. CRAMER: Six. 3 MR. ISAACSON: Page 6. 4 BY MR. ISAACSON: 5 Q. I also encourage your people 6 who helped you with your caption to help 7 you with the font of your footnotes in 8 the future. 9 A. Okay. 10 MR. CRAMER: I think you 11 might have to deal with Bill Gates 12 on that. 13 MR. ISAACSON: Yeah. 14 BY MR. ISAACSON: 15 Q. All right. You say there: 16 "The identity of the 17 fighters participating in an event can 18 make a great deal of difference to how 19 much revenue it generates." 20 A. Yeah. 21 Q. And what do you mean by the 22 identity of the fighters in that 23 sentence? 24 A. Well, this means that, you</p>
<p>1 cannot be explained by the skills and 2 experience of the individual worker; is 3 that right? 4 A. I mean, I think there are 5 two issues there. I mean, one is in 6 datasets, you have a measure of skills 7 and experience, and typically those 8 measures are not perfect measures. So 9 first of all, one of -- I mean, part of 10 this is can you right -- estimate, you 11 know, things like earnings equations, 12 which haven't asked where one would fit 13 the data perfectly, no, you cannot, just 14 using measured skills and experience. 15 That's one reason skills and experience 16 are not perfectly measured. 17 The other is that there is 18 evidence that who you work for matters, 19 and that's consistent with the view that 20 labor markets have some degree of 21 monopsony power in them. 22 Q. I ask you to look at 23 footnote 28 of your report. 24 A. Which page is this?</p>	<p>Page 99</p> <p>Page 101</p> <p>1 know, people, you know -- it's going back 2 to this idea that the fighters are the 3 product in this case. People are paying 4 not just to see a fight, any other fight, 5 they're paying to see a fight between two 6 individuals -- particular individuals. 7 Q. And then you say that the 8 recent fight -- well, actually let me go 9 over that. 10 The -- and then you cite: 11 "The recent fight between 12 Floyd Mayweather and Conor McGregor is 13 illustrative. Substituting two other 14 fighters in their place would have been 15 expected to generate far lower revenues." 16 Do you have an opinion of 17 whether the promotion of the McGregor/ 18 Mayweather fight played a role in how 19 much generated -- how much revenue it 20 generated? 21 A. I mean, I have not studied 22 that. I have no opinion on that, no. 23 Q. All right. In footnote 28 24 you then cite an article from MMA Junkie.</p>

1 CERTIFICATE
2
3
4
5

I HEREBY CERTIFY that the witness was duly sworn by me and that the deposition is a true record of the testimony given by the witness.

It was requested before completion of the deposition that the witness, ALAN MANNING, have the opportunity to read and sign the deposition transcript.

Constance S. Kent
Constance S. Kent, CCR, RPR, CCR
Certified Court Reporter
Registered Professional Reporter
Certified LiveNote Reporter
and Notary Public in and for the Commonwealth of Pennsylvania
Dated: February 9, 2018

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2 ERRATA
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1 INSTRUCTIONS TO WITNESS
2

3 Please read your deposition over carefully and make any necessary corrections. You should state the reason in the appropriate space on the errata sheet for any corrections that are made.

8 After doing so, please sign the errata sheet and date it.

10 You are signing same subject to the changes you have noted on the errata sheet, which will be attached to your deposition.

14 It is imperative that you return the original errata sheet to the deposing attorney within thirty (30) days of receipt of the deposition transcript by you. If you fail to do so, the deposition transcript may be deemed to be accurate and may be used in court.

1 ACKNOWLEDGMENT OF DEPONENT
2
3
4 I, _____, do
5 hereby certify that I have read the
6 foregoing pages, 1 - 170, and that the
7 same is a correct transcription of the
8 answers given by me to the questions
9 therein propounded, except for the
10 corrections or changes in form or
11 substance, if any, noted in the attached
12 Errata Sheet.

16 ALAN MANNING DATE

17
18
19
20 Subscribed and sworn
21 to before me this
22 ____ day of _____, 20____.
23 My commission expires: _____
24 Notary Public